

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Bennie K. Davenport,

Petitioner,

vs.

Sheriff of Newberry County,

Respondent.

C.A. No.: 0:08-02895-RBH

ORDER

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No objections were filed to the Report and Recommendation. The Report and Recommendation [doc. entry #32] was mailed to the plaintiff on February 6, 2009 [doc. entry #33]. The mail was returned to the court [doc. entry #34] on February 12, 2009, marked “Mail Returned as Undeliverable, return to sender, not at this facility.” Plaintiff has not provided the court with an updated address as required by

the order of August 25, 2008, and, as a result, the court has no means of contacting him concerning his case. Plaintiff was warned and advised in the order to keep the Clerk apprised of his current address and that a failure to do so may result in a dismissal of the case. Accordingly, this action is to be dismissed pursuant to Fed. R. Civ. Proc. 41(b). Furthermore, in the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Gossett's Report and Recommendation and incorporates it herein. It is therefore

ORDERED that this action is DISMISSED with prejudice for lack of prosecution.

IT IS SO ORDERED.

s/ R. Bryan Harwell
HON. R. BRYAN HARWELL
United States District Judge

Florence, South Carolina
February 27, 2009